

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: November 19, 2019

SUBJECT: Report on Bill 23-328, “Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019”

The Committee of the Whole, to which Bill 23-328, the “Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019” was referred, reports favorably thereon, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On June 6, 2019, Bill 23-328, the “Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019” was introduced by Councilmember Vincent Gray. Bill 23-328 would authorize the closure of a portion of the public alley system in Square 5017, bounded by Benning Road N.E., 36th Street N.E., Eads Street N.E., and 34th Street N.E., in Ward 7.

The Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201 *et seq.*) (“Act”) establishes procedures for closing streets and alleys, opening new streets and alleys, naming public spaces, and other procedures related to streets and alleys. The Act authorizes the Council to close all or part of a street or alley and establishes one standard for reviewing a street or alley closing application: whether the street or alley is determined by the Council to be needed for street or alley purposes. The Act also authorizes the Council to make approval of a street or alley closing contingent upon:

(1) the dedication of land for street or alley purposes if the public interest would be served by such action; (2) the granting to the District of specific easements for public purposes; and (3) any other condition that the Council considers necessary.

Pursuant to the Act, street and alley closing applications are submitted to the Surveyor of the District of Columbia who assigns a Surveyor's Order (S.O.) number and collects applicable fees. The Surveyor requests comments from executive branch agencies and public utilities. A plat is prepared, and the application is forwarded through the Mayor's Office of Policy and Legislative Affairs, which also solicits comments from executive branch agencies. When these reviews are completed, the application is transmitted to the Council in the form of a bill from the Mayor. Council members may also initiate action on an alley or street closing on their own by introducing a bill. In such cases, the Act provides that the Council cannot consider such a bill until the required reviews have been completed. Regarding Bill 23-328, all of the reviews have been completed without objection.

The Act establishes notice requirements for street and alley closing legislation. The Council is required to publish notice of a street or alley closing in the *District of Columbia Register*. Further, the applicant is required to give written notice to all property owners abutting a block or alley affected by the proposed street or alley closure. The applicant is also required to post signs at each end of a block or each entrance to an alley affected by the street or alley closing legislation. The applicant is required to give the Council certification of compliance with these requirements. Regarding Bill 23-328, these requirements have been met.

After the street or alley closing legislation becomes law and all conditions required by the Council and the Act have been satisfied, the Surveyor records a copy of the act and plat in the Office of the Surveyor. Thereafter, the street or alley is deemed closed and title to the land reverts or vests in fee simple to the abutting record owners as shown on the plat. The land becomes subject to tax and zoning laws in the same manner as the abutting land. The right of the public to use the street or alley typically ceases, and any proprietary interest of the United States or the District of Columbia in the street or alley ceases. If a closing plat shows an easement or dedication of land for public purposes, the land encompassed by the easement or dedication becomes available for the specified public purposes.

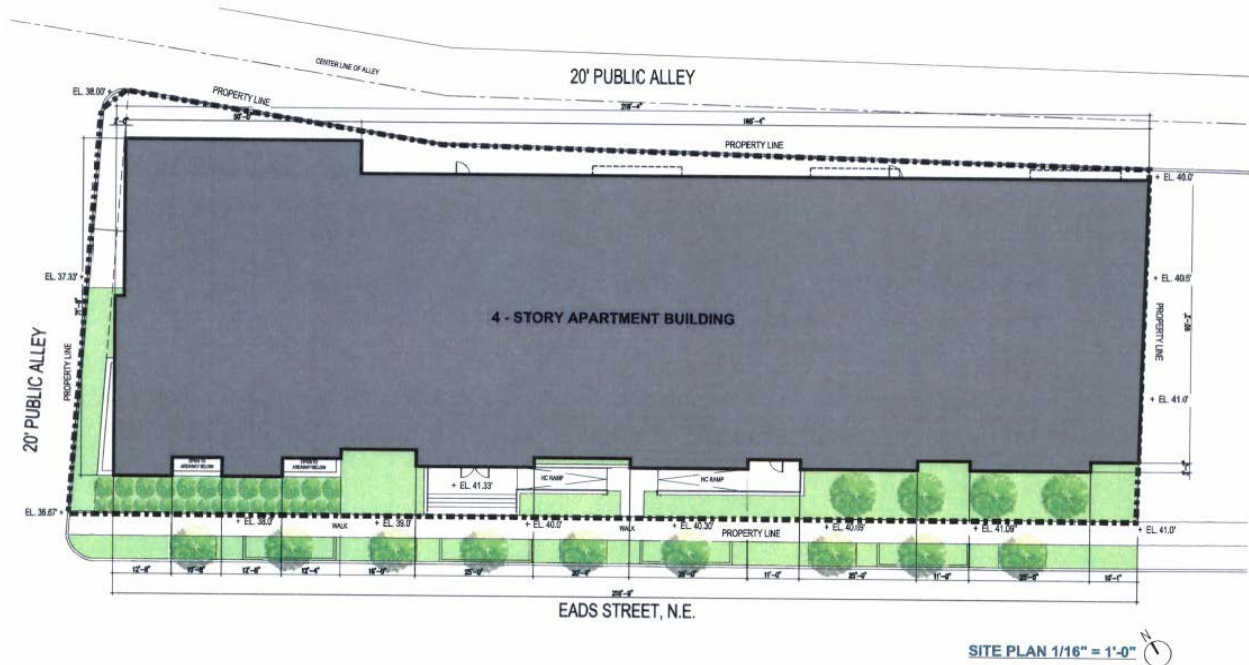
The Development Project

The alley closure will allow the applicant (3443 Benning, LLC) to consolidate their property for construction of a 49-unit multifamily residential development. All 49 units will be affordable at 80% median family income (MFI) or less as follows:

- Five units as affordable for households earning 30% MFI) or less;
- 20 units at 30-50% MFI;
- 18 units at 50-60% MFI; and
- Six units at 60-80% MFI.

At least eight of the units will be "family-sized" units with three bedrooms, and the rest will be mix of one-or-two-bedroom units. Other aspects of the development include a 1,250-foot

community room for use by residents and community organizations meetings or events, and thirteen parking spots for residents via above-grade, enclosed garages. Additionally, the applicant has designed the project to be certified in accordance with the 2015 Enterprise Green Communities criteria.



II. LEGISLATIVE CHRONOLOGY

- | | |
|--------------------|--|
| June 6, 2019 | Bill 23-328, the “Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019” is introduced by Councilmember Vincent Gray. |
| June 14, 2019 | Notice of Intent to Act on Bill 23-328 is published in the <i>District of Columbia Register</i> . |
| June 18, 2019 | Bill 23-328 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official. |
| September 20, 2019 | Notice of a Public Hearing on Bill 23-328 is published in the <i>District of Columbia Register</i> . |
| October 10, 2019 | The Committee of the Whole holds a public hearing on Bill 23-328. |
| November 19, 2019 | The Committee of the Whole marks-up Bill 23-328. |

III. POSITION OF THE EXECUTIVE

Roland Dreist, D.C. Surveyor, testified at the Committee's public hearing on October 10, 2019. Mr. Dreist noted the purpose of the alley closure is to allow for the applicant to consolidate their property for a residential development project. He said that the most probable value for the closing of the alley as of January 1, 2019 is estimated at \$74,000 (1,239 square feet multiplied by \$59.73).

Mr. Dreist testified that there were no objections on the record, including none from the Executive branch agencies or utility companies.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

Advisory Neighborhood Commission 7D04 submitted a letter to Roland Dreist, D.C. Surveyor, conveying its support for the closure.

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

By a delegated action of the Executive Director, dated September 8, 2017, the Executive Director of the National Capital Planning Commission found that the proposed alley closing in Square 5017 would not be inconsistent with the *Federal Elements of the Comprehensive Plan for the National Capital* and would not adversely affect any other federal interests. The letter is attached to this report.

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 23-328 on Thursday, October 10, 2019. The testimony summarized below is from that hearing. Copies of all written testimony are attached to this report.

David Avitabile, Goulston & Storrs, testified as Counsel to Neighborhood Development Company. Mr. Avitabile told the Committee that the applicant is seeking closure of the alley so they can combine it with four existing lots and construct an apartment building. He noted that the building will include 49 units with a mix of studios, one, two- and three-bedroom units at a range of levels of affordability. Finally, Mr. Avitabile said the project was approved by the Zoning Commission as a PUD. Due to some concerns raised by residents near the development, they will be returning to the Zoning Commission in the fall to seek modifications to the PUD consistent with the agreement they reached with these residents.

Adrian Washington, CEO and Founder of Neighborhood Development Company, testified that the building would include a community room that will be available for use by ANC 7D, River Terrace Community Organization, and other community groups. Mr. Washington noted that they worked with the neighborhood to ensure that the building would meet community needs.

Roland Dreist, Surveyor of the District of Columbia, testified on behalf of the Executive. His testimony is summarized in Section III.

VII. IMPACT ON EXISTING LAW

Bill 23-328 has no impact on existing law. The Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201 *et seq.*) (“Act”) establishes procedures for closing streets and alleys, opening new streets and alleys, naming public spaces, and other procedures related to streets and alleys. Additionally, it authorizes the Council to close all or part of a street or alley. In approving Bill 23-328, the Committee finds that the requirements of the Act have been satisfied.¹

VIII. FISCAL IMPACT

The attached fiscal impact statement from the District’s Chief Financial Officer states that funds are sufficient in the FY 2019 through FY 2022 budget and financial plan to implement the bill.

IX. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	Short title.
<u>Section 2</u>	The Council finds that a portion of the public alley system in Square 5017, as shown on the Surveyor’s plat filed in S.O. 16-24507, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor’s plat.
<u>Section 3</u>	Fiscal impact statement.
<u>Section 4</u>	Effective date.

X. COMMITTEE ACTION

¹ D.C. OFFICIAL CODE § 9-202.01 *et seq.* (2015).

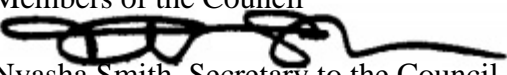
XI. ATTACHMENTS

1. Bill 23-328 as introduced (omitting some attachments).
2. Written Testimony.
3. Surveyor's Plat.
4. NCPC Comments.
5. Fiscal Impact Statement for Bill 23-328.
6. Legal Sufficiency Determination for Bill 23-328.
7. Committee Print for Bill 23-328.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : June 07, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Thursday, June 6, 2019. Copies are available in Room 10, the Legislative Services Division.

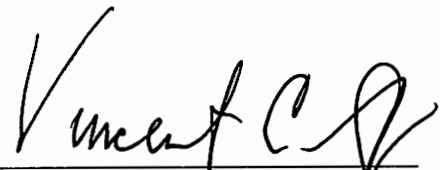
TITLE: "Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019",
B23-0328

INTRODUCED BY: Councilmember Gray

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

cc: General Counsel
Budget Director
Legislative Services



Councilmember Vincent C. Gray

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To order the closing of a portion of the public alley system in Square 5017, bounded by Benning Road, N.E., 36th Street, N.E., Eads Street, N.E. and 34th Street, N.E., in Ward 7.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Alley in Square 5017, S.O. 16-24507, Act of 2019".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds a portion of the public alley system in Square 5017, as shown on the Surveyor's plat filed in S.O. 16-24507, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat. The approval of the Council of this alley closing is contingent upon the satisfaction of all conditions set forth in the official file for S.O. 16-24507 before the recordation of the alley-closing plat.

22 Sec. 3. Fiscal impact statement.

23 The Council adopts the fiscal impact statement in the committee report as the fiscal
24 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
25 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

26 Sec. 4. Effective date.

27 This act shall take effect following approval by the Mayor (or in the event of veto by the
28 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
29 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
30 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
31 Columbia Register.



July 5, 2016

Mr. Roland Dreist
D.C. Surveyor
Department of Consumer and Regulatory Affairs
Office of the Surveyor
1100 4th St, S.W., 3rd Floor
Washington, DC 20024

Subject: Street/Alley Closing Application S.O. 16-24507

Dear Mr. Dreist:

The District of Columbia Water and Sewer Authority (DC Water) is in receipt of the application and plat(s) you forwarded to us for comments on **July 1, 2016** regarding **S.O. 16-24507**. DC Water does not currently operate or maintain any facilities located within the subject area. Therefore, as long as surface drainage of the street(s) and alley(s) is accommodated, DC Water has no objections to the proposed street/alley closings requested in **S.O. 16-24507**.

If you have any questions, I can be reached at the contact information listed below.

Regards,

Kevin Harney
Easement and Covenant Coordinator
District of Columbia Water and Sewer Authority
1100 4th Street, SW Suite #310
Washington, DC 20024
202-646-8627 Office
202-646-8628 Fax
kevin.harney@dcwater.com
DC Water - Water is Life!



A PHI Company

Pepco Engineering – DC
3400 Benning Rd. NE Bldg. #59
Washington, D.C. 20019-1503
Telephone: 202-331-6237 Fax: 202-388-2721

July 1, 2016

Mr. Roland F. Dreist, Jr.
Government of the District of Columbia
Department of Consumer and Regulatory Affairs
1100 4th Street, SW, Third Floor
Washington, DC 20024

RE: Proposed closing of Public Alley Square 5017 – S.O. 16-24507

Dear Mr. Dreist:

In response to your memorandum dated July 1, 2016 concerning the proposed alley closing, we comment as follows:

We have reviewed the documents showing the proposed alley closing and we have determined that Pepco does not have any facilities within the proposed alley to be closed. Therefore, we do not object to the proposed closing of the portion of the alley that does not contain any Pepco facilities.

There is one pole feeding the street light in the alley, but it belongs to the city.

If you have any questions regarding this matter, please call me at (202)388-2494 or email me at qton@pepco.com

Sincerely,

A handwritten signature in black ink, appearing to read "Juanita Lablasone", written over a horizontal line.

Juanita Lablasone
Distribution Engineering – DC

Network Engineering
OPPE MD/DC



Floor 1
Silver Spring, MD 20904

July 1st, 2016
Mr. Roland F. Dreist, Jr.
Office of the Surveyor
1100 4th Street SW.
Washington, D.C. 20024

RE: Proposed Closing of a Public Alley in Square 5017-S.O 16-24507

Dear Mr. Dreist:

In reference to your letter dated which relates to S.O. 16-24507

Location: Closing of a Public Alley in Square 5017 S.O 16-24507

There is no telephone plant in this alley.

Verizon Washington D.C. Inc. has no objections to this closing of a Public Alley in Square 5017

Very truly yours,

Kenneth Young
Engineer, Outside Plant Engineering, WSAM

KLB/KDY *Kenny Young*

c.c. D.C.D.O.T. Underground Location Section
Area Engineer
File



6801 Industrial Road
Springfield, Virginia 22151

July 5th, 2016

Mr. Roland Driest
Atten. Diana Dorsey Hill
Department Of Consumer and Regulatory Affairs
Building and Land Regulations Administration
Office of The Surveyor
Washington , D.C. 20002

Dear Mr. Roland Driest

RE: Proposed Closing of a Public Alley in Square 5017 – S.O. 16 - 24507.

We have no facilities in conflict with the area as shown and have no objection to the closing of the Public Alley in Square 5017 – S.O. 16 - 24507.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Banks".

Robert W. Banks

Digitizer / Draftsman

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION**



d. Planning and Sustainability Division

To: Roland F. Dreist, Jr
DC Surveyor
Office of the Surveyor

From: Jim Sebastian *JS*
Associate Director

Date: February 8, 2018

Subject: S.O. No. 16-24507 – Closing of a Public Alley in Square 5624

The District Department of Transportation (DDOT) submitted a report September 13, 2017, for the proposed removal of a 1,239 square foot north-south public alley that connects to an existing east-west public alley located in Square 5017 adjacent to Lots 839 and 840 (Property) owned by the Applicant.

DDOT objected to the closure action until the following conditions were met:

- The Applicant compensates the District in the amount of \$4611.50 for the removal of existing DDOT assets in the areas proposed for closure; and
- Secure permits to remove special trees.

The Applicant agreed to these conditions in a letter dated September 20, 2017 to DDOT (see attachment) and has paid the \$4,611.50 payment and received special tree permits (attached). As such, DDOT has no objection to the proposed action to remove the 1,239 square foot north-south public alley that connects to an existing east-west public alley located in Square 5017.

Enclosure

JS:kb

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION**



d. Planning and Sustainability Division

To: Ronald F. Dreist, Jr
DC Surveyor
Office of the Surveyor

From: James Sebastian *J. Sebastian*
Associate Director

Date: September 13, 2017

Subject: S.O. No. 16-24507 – Closing of a Public Alley in Square 5017 (3450 Eads Street, NE)

Overview

3443 Benning, LLC (the "Applicant") seeks approval to remove a 1,239 square foot north-south public alley that connects to an existing east-west public alley. The subject alley is located in Square 5017 adjacent to Lots 839 and 840 (Property) owned by the Applicant.

Development Proposal

The public alley closing will facilitate the redevelopment of Square 5017, Lots 839-842. The public alley to be closed currently divides the Applicant's property. The Applicant proposes to construct an affordable housing development with 70 senior housing, 17 surface-level vehicle parking spaces, and 20 long-term and 8 short-term (4 racks) bicycle parking spaces. The Zoning Commission (ZC) held hearings on the site for a Consolidated Planned Unit Development (PUD) and Related Map Amendment (ZC Case No. 16-20) on May 5, 2017 and July 10, 2017. The ZC is expected to approve the PUD and Related Map Amendment on September 25, 2017. DDOT participated in the PUD process and did not object to the zoning action.

The proposed project is located adjacent to two public alleys to the north and west, Eads Street to the south, and a vacant property to the east. Another north-south public alley bisects a portion of the site, which the Applicant proposes to close. Since the public alleys to the north and west will remain open, DDOT finds the remaining public alley network sufficient for the needs of the square. Vehicular, loading, trash, and long-term bicycle access is proposed from the two public alleys to the north and west of the site.

Alley Operations

The north-south public alley to be closed is 16-foot wide and connects to an existing 20-foot east-west public

alley. Another north-south public alley (20-feet) that connects to the east-west public alley will remain. This remaining north-south public alley is adjacent to the proposed development.

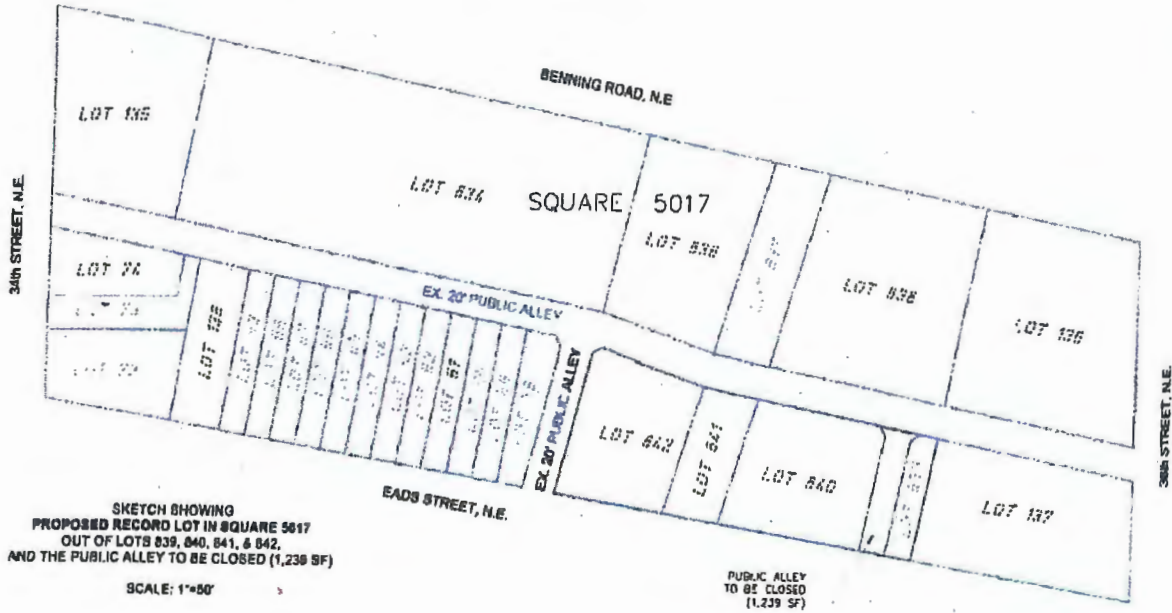


Figure 1: Applicant Proposed Public Alley Closure

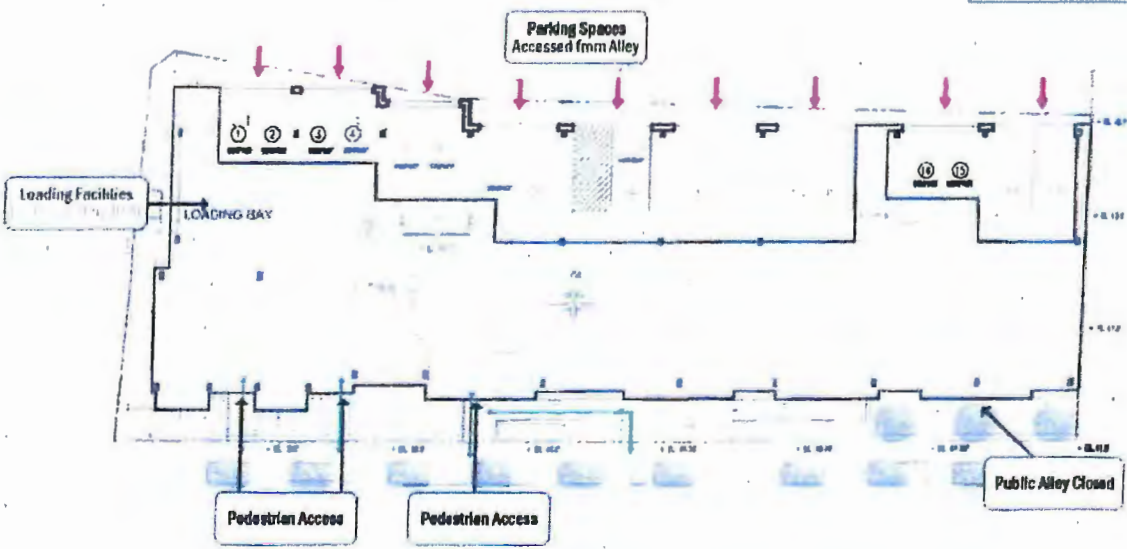


Figure 2: Updated Site Plan Since SO Submission

DDOT Assets

DDOT requires that the Applicant shall compensate the District for the removal of existing DDOT assets in the areas proposed for closure. Figure 3 provides a summary of DDOT assets within the sections of ROW proposed for closure. A detailed breakdown of existing DDOT assets and associated costs is provided in Attachment A.

CONTRACTOR	LABOR AND OTHER COST ITEMS	AMOUNT
PEPCO	ENGINEERING, LABOR, TRUCKS, MATERIALS, ETC. AS ESTIMATED	\$0.00
DISTRICT	STREET LIGHT HARDWARE FURNISHED AT WAREHOUSE INVENTORY COST	\$2,169.00
DISTRICT	PAVEMENT RESTORATION AT CURRENT CONTRACT PRICES	\$0.00
DISTRICT	ABANDONMENT OF UNDERGROUND CABLE/CONDUIT BOOK MINUS SALVAGE VALUE	\$2,192.50
	SUBTOTAL	\$4,361.50
DISTRICT	ENGINEERING	\$250.00
DISTRICT	PROCESSING FEE	\$20.00
	TOTAL COST, NOT TO EXCEED	\$4,631.50

Figure 3: DDOT Assets

Furthermore, the Applicant must also secure all necessary tree removal permits as a condition of closure, which may include fees. The site is adjacent to a vacant property to the east. Three special trees exist along the fence line of the vacant property, and their roots extend into the Applicant's site. The development will impact these trees, necessitating their removal.

Public Space

In line with District policy and practice, any substantial new building development or renovation is expected to rehabilitate streetscape infrastructure between the curb and the property lines. This includes curb and gutters, street trees and landscaping, street lights, sidewalks, and other appropriate features within the public rights of way bordering the site.

Vault location may need to be incorporated during the public space permitting process. DDOT expects vaults to be located either in the public alley or on private space. DDOT will not support utility vaults in public space in front of the building or in the roadway.

Recommendation

DDOT objects to the closure action until the following conditions are met:

- The Applicant compensates the District in the amount of \$4611.50 for the removal of existing DDOT assets in the areas proposed for closure; and
- Secure permits to remove special trees.

JS:ei



MEMORANDUM

TO: Roland F. Dreist, Jr., L.S., D.C. Surveyor
Office of the Surveyor

FROM: *JL Fox* Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

DATE: **March 10, 2017**

SUBJECT: S.O.16- 24507
Proposed Closing of a Public Alley in Square 5017

I. RECOMMENDATION

The Office of Planning (OP) has completed its review of the application for the requested alley closing, and **has no objection** to this request.

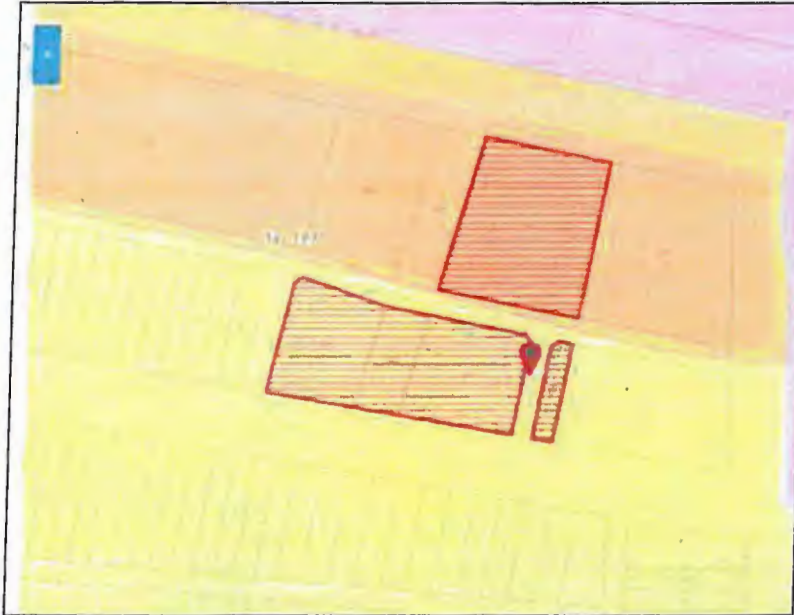
II. SITE DESCRIPTION


Address:	3450 Eads Street, N.E.
Applicant	3443 Benning LLC
Legal Description:	Square 5017, Lots 839, 840, 841, 842 and 1,264 square feet of an alley between Lots 839 and 840, which is proposed to be closed.
Ward / ANC:	Ward 7; ANC 7D
Zone:	R-3. A PUD with a related map amendment to MU-7 is in process. R-3: row dwellings, and areas within which row dwellings are mingled with detached dwellings, semi-detached dwellings, and groups of three or more row dwellings. MU-7: Permits medium density mixed-use development.
ZC 16-20 : Under Review – Public Hearing - May 4, 2017	The Zoning Commission is scheduled to consider the proposed redevelopment of this site with a multi-family residential building at a public hearing to be held May 4, 2017. Public hearing submittals by the applicant generally address Commission concerns raised to date, including primarily the material composition of the building. Concerns related to the closure of the alley have not been expressed.
Comprehensive Plan Generalized Future Land Use and Policy Map Designation:	Land Use Map – Medium Density Commercial and Moderate Density Residential. Policy Map – Neighborhood Conservation Area. To date in the Zoning Commission case, concerns have not been expressed that the proposal is not inconsistent with this designation.



Comprehensive Plan Goals and Objectives:	The proposal would particularly further objectives of the Land Use, Housing, Urban Design, Environmental and Far Northeast and Southeast Area Elements of the Comprehensive Plan.
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III PROPOSAL



Request	To close a portion of the alley as shown in the map above. 
Description	The alley is in use but is currently in a state of disrepair.
Size	The alley is 1,239 square feet in area, and 16 feet wide.
Adjacent Ownership	The District owns the adjacent property to the east, Lot 0137, with premise address as 500 36 th Street, N.E.
Proposed Development	The proposed development would include the construction of a 70-unit residential property of studio (2 units) and one-bedroom units (68 units) dedicated to seniors (60% of the development) and other residents.
<u>Uses</u>	Residential only
<u>Height and Density</u>	Height: 58 feet (5 stories): Density - 3.81 FAR : Lot Occupancy – 81%
<u>Site Plan</u> (Revised for the public hearing (Exhibits 12E1 and 12E2))	The 5-story building reads as a conventional multi-family building with a flat roof. The building steps down to four stories at the west to respect the massing of the 2-story single family homes, across the 20-foot wide north/south alley, west of the subject property. The 1,294 square feet to the east noted in the site plan is intended to be closed to accommodate an improved site plan. The amended site plan (02.23.2017) is based on the Zoning Commission’s comments on November 4, 2016.

<u>Parking and Loading</u>	Vehicular parking with 17 at-grade spaces would be located at the rear of the building, off the east/west alley. Loading would be via the north/ south portion of the alley between the subject property and the homes to the west. The at-grade loading area would be screened from the existing homes by a roll-up gate
<u>Easements</u>	There are no known easements across the property.

III. ANALYSIS

A. Planning and Urban Design

The Director of the Office of Planning is required to “*determine whether the proposed closing is in compliance with the District’s planning and urban design objectives*”, as per 24 DCMR 1401.2(c). These objectives, as contained within the Comprehensive Plan (10DCMR, Chapter 9), include:

§300 Land Use Element

§310.8 Policy LU-2.2.7: Alley Closings

Discourage the conversion of alleys to private yards or developable land when the alleys are part of the historic fabric of the neighborhood and would otherwise continue to perform their intended functions, such as access to rear garages and service areas for trash collection.

This portion of the overall alley system within the square is redundant to access by residential and commercial uses north of the site. Alley access for the square and its surrounding uses would be maintained, including access to Eads Street via the north/south 20-foot alley and through the east/west connection to 36th Street, N.E. Therefore, the rear yards of existing homes and businesses would continue to have access to trash truck and delivery services.

§900 Urban Design Element

The critical urban design issues facing the District of Columbia... include:

- *Strengthening civic identity through a renewed focus on assets such as public spaces, boulevards, and waterfront areas...*
- *Improving the public realm, particularly street and sidewalk space...*

The proposal would improve pedestrian connectivity to 36th Street and Benning Road through new and improved sidewalks built to DDOT’s contemporary standards. Additionally, new landscaping would complement the development, as well as the existing streetscape, while providing stormwater benefits where none currently exists.

§903.7 Policy UD 1.1.2: Reinforcing the L’Enfant and McMillan Plans.

... Restore as appropriate and where possible, previously closed streets and alleys, and obstructed vistas or viewsheds. (See Figure 9.3: Discouraging Alley and Street Closings within the L’Enfant Plan Area 903.10)



Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 7D

4058 Minnesota Avenue NE · Suite 1400 (DOES Building)

Washington, DC 20019

cinque.culver@anc.dc.gov | 202-907-8662

Cinque E. Culver
ANC Commissioner (7D04)
Washington, DC 20019
cinque.culver@anc.dc.gov
202-907-8662

February 28, 2019

Mr. Roland F. Dreist, Jr.
Office of the Surveyor
1100 4th Street, SW, 3rd Floor
Washington, D.C. 20024

Re: S.O. 16-24507
Proposed Closing of Public Alley in Square 5017

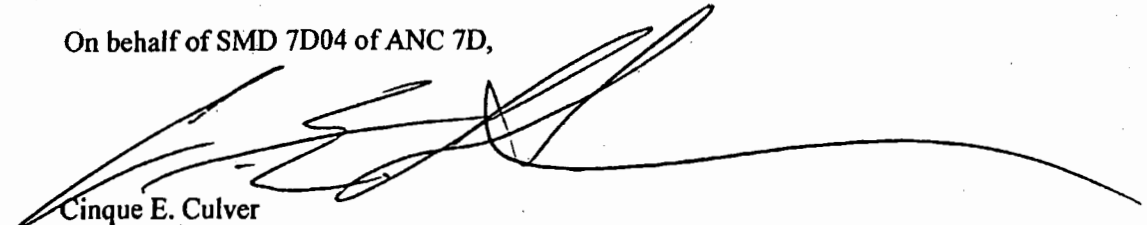
Dear Mr. Dreist,

During our most recent General Body Meeting on Wednesday February 27th, the River Terrace Community Organization reviewed the matter of the alley closing plan to close a portion of the existing public alley (the "Alley") on Square 5017, in Single Member District 7D04 (SMD 7D04) - River Terrace. The February 27th General Body Meeting of the River Terrace Community Organization was properly noticed, a 15+ member quorum was established. On behalf of SMD 7D04 of Advisory Neighborhood Commission 7D, we are providing this letter as evidence of support for the proposed closure of the Alley.

We understand the proposed closure of the Alley will allow for the construction of a development in Square 5017 and that the proposed closing of the Alley will allow for a more efficient site plan for the proposed project. 3443 Benning LLC, an affiliate of Neighborhood Development Company, is the applicant for the proposed closure of the Alley.

If you have any questions about this letter memorializing the above-referenced resolution of the SMD, please contact me at 7D04@anc.dc.gov or 202-907-8662. Thank you for giving great weight to the recommendation, concerns, and interests of Advisory Neighborhood Commissions.

On behalf of SMD 7D04 of ANC 7D,



Cinque E. Culver
ANC Commissioner, River Terrace (7D04)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Public Works



Solid Waste Management Administration

MEMORANDUM

TO: Roland F. Dreist, Jr.
Surveyor, D.C.

FROM: Anthony Duckett *A.D.*
Chief Street & Alley Cleaning Division

SUBJECT: Proposed closing of a Public Alley and Easement in Square 5017- SO, 16-24507

Date: November 25th 2016

The following Alley closing and Easement was investigated for review:

Square 5017- SO, 16-24507

The Department has reviewed the proposed closing, at this time we have no objection to the closing of alley Square.5017- SO, 16-24507

If you have any questions please call me at 202-727-2539.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer
Office of Tax and Revenue



MEMORANDUM

To: Roland F. Dreist, Jr., Surveyor, DC

From: Eugene Clindinin, Supervisory Appraiser, OTR/RPTA/RPAD

Date: September 6, 2019

Subject: Most Probable Assessed Land value for S.O. 16-24507 Public Alley Closing in Square 5017.

Reference: S.O. 16-24507 Public Alley Closing in Square 5017.

Pursuant to your request we have derived the most probable estimate of value for the above referenced tract of land.

The most probable estimate of value as of January 1, 2019 which represents tax year 2020 for the public alley closing in square 5017 is estimated at **\$74,000** (1,239 S.F X \$59.73 estimated square foot). The estimate is rounded.

If you have any questions, please contact me at 202.442.6743.

Sincerely,



Eugene Clindinin
Supervisory Appraiser
OTR/RPTA/RPAD

BEFORE THE DISTRICT OF COLUMBIA CITY COUNCIL

B23-328 (SQUARE 5017 ALLEY CLOSING)

TESTIMONY OF DAVID AVITABILE, GOULSTON & STORRS

COUNSEL TO NEIGHBORHOOD DEVELOPMENT COMPANY

Good morning Mr. Chairman and members of the Committee of the Whole. I am David Avitabile with Goulston & Storrs. I serve as the zoning and land use counsel for the applicant for the proposed alley closing in Square 5017. We have one witness here this morning to present testimony in support of Bill 23-328; Adrian Washington, CEO and Founder, Neighborhood Development Company, and manager of the applicant in this alley closing. Michael Giulioni, Director of Pre-Development with NDC, is also here with us today.

On October 8, we submitted to the Committee of the Whole our statement and materials in support of the proposed alley closing. As we noted in the statement, this application satisfies all applicable requirements of the D.C. Code, and the approval of this legislation will further the goals and policies of the Comprehensive Plan for the Benning Road corridor and the River Terrace neighborhood.

The applicant seeks approval to close the alley so that it may combine four existing lots and construct a new affordable apartment building. The apartment building will be located, in part, on the former public alley. The apartment building will include approximately 49 units, with a mix of studios, 1, 2, and 3 bedroom units. The units will be reserved at a range of levels of affordability, from 30% of the Median Family Income to 80% of the Median Family Income. The apartment building will also include a 1,250-square foot community room.

As set forth in our written materials, the alley is not necessary because of existing public alleys within the square that will remain, including an east-west alley that runs the entire length of square and a north-south alley that connects Eads Street to the alley immediately west of our property.

Each affected agency and utility has approved or has no objection to the alley closure. Furthermore, the project has been approved by the Zoning Commission as a part of the Planned Unit Development.

As we noted in our statement, the original project raised some meaningful concerns from neighborhood stakeholders as it went through the PUD process, not all of which were able to be addressed during the PUD process. As a result, the original PUD was appealed by some of the neighborhood stakeholders. That

appeal served as a catalyst for both sides to come together and reach a mutually agreeable resolution on the program and design of the project going forward. We anticipate returning to the Zoning Commission this fall to seek approval of modifications to the PUD consistent with the agreement with the neighbors.

I will now ask Adrian Washington to present his testimony.

BEFORE THE DISTRICT OF COLUMBIA CITY COUNCIL

B23-328 (SQUARE 5017 ALLEY CLOSING)

TESTIMONY OF ADRIAN WASHINGTON, CEO AND FOUNDER,

NEIGHBORHOOD DEVELOPMENT COMPANY

Good morning. My name is Adrian Washington, and I am the founder and CEO of Neighborhood Development Company. I am pleased to be here and thank you for your consideration this morning.

NDC is a dynamic and vertically-integrated real estate development company that focuses on revitalizing yet respecting urban neighborhoods. I founded NDC twenty years ago to develop exciting residential and commercial properties, and we emphasize on sustainable design and meeting the needs of the surrounding market and community. Since founding, we have delivered 45 projects throughout the District, including over 300 affordable housing units. We are currently developing nine projects in the District, including three in the River Terrace neighborhood on or near Benning Road

One of these developments is the proposed residential apartment building that is associated with the proposed alley closing. The project will allow us to

redevelop an existing surface parking lot into 49 new housing units. No existing residents will be displaced, and the proposed mix of unit types and affordable housing levels will ensure a variety of housing opportunities that are compatible with the surrounding River Terrace neighborhood.

Also included in the building is a community room that will be made available not only to building residents but also to ANC 7D, the River Terrace Community Organization, and other community groups. The project will also contribute positively to the surrounding built environment, with an attractive and contextual brick building, extensive landscape and streetscape improvements, and a commitment to Enterprise Green Communities sustainable design criteria.

In developing this building, we worked hard with the neighborhood to come up with a program and a building that would meet community as well as our priorities. This resulted in a number of significant commitments and changes, including reducing the height of the building, reducing the number of units yet also incorporating a greater number of larger 2- and 3-bedroom units, and expanding the range of income bands eligible to live in the building to better match the River Terrace neighborhood's makeup and needs.

The delivery of this affordable housing and the other amenities is only possible if the alley is closed. I thank you for your time today and I hope that my testimony has helped to clarify the importance of this alley closing to delivering nearly 50 new units of affordable housing to the River Terrace neighborhood.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**



Public Hearing
On

Bill 23-328, the “Closing of a Public Alley in Square 5017, S.O. 16-24507 Act of 2019”

Testimony of
Roland Dreist
Surveyor of the District of Columbia
Department of Consumer and Regulatory Affairs

Before the
Committee of the Whole
Chairman Phil Mendelson

John A Wilson Building
Room 412
1350 Pennsylvania Avenue, NW
Washington, DC 20004

October 10, 2019
10:00 am

Good Morning, Chairman Mendelson, members, and staff of the Committee of the Whole. I am Roland Dreist, Surveyor of the District of Columbia with the Department of Consumer and Regulatory Affairs. I appear before you today to present testimony on Bill 23-328, the "Closing of a Public Alley in Square 5017, S.O. 16-24507, Act Of 2019." This bill would order the closing of a portion of a public alley in Square 5017, bounded by Eads Street N.E., 34th Street N.E., Benning Road N.E., and 36th Street N.E. in Ward 7.

The purpose of this alley closure is to allow for the applicant to consolidate the applicant's properties which are separated by the alley, and allow for construction of a new residential development on the site. The development will also provide parking. The alley to be closed was created by a "Dedication of Land for Public Alley" recorded in Subdivision Book 120, Page 81 on July 26, 1944. The title to the portion of the alley to be closed could not be determined to be held by the District of Columbia or the United States. The most probable value for the closing of the alley in Square 5017 as of January 1, 2019– which represents tax year 2019 –is estimated at \$74,000.00 (1239 S.F. x \$59.73).

The applicant for this closure is 3443 Benning LLC, who is represented by Goulston & Storrs. The Surveyor's Office notified the relevant Executive Branch agencies and confirmed that there are no agency objections to this application. The utility companies also have no objection to this closing.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on July 1, 2016. In a letter dated September 8, 2017, NCPC determined that the proposed closing would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital, nor adversely affect any other federal interests. Pursuant to D.C. Official Code § 9-202.02(5), the Surveyor's Office

notified Advisory Neighborhood Commission 7D of this application on July 1, 2016. In a letter dated February 28, 2019, ANC 7D supported this application. Pursuant to D.C. Official Code § 9-202.02(6), the Surveyor's Office notified the abutting property owners, who in this case are the applicants. The Office of the Surveyor will forward any further comments when they are received.

This concludes my testimony. I appreciate the opportunity to appear before you today and welcome any questions regarding this matter. Thank you.



Delegated Action of the Executive Director

PROJECT Closing of a public alley in Square 5017 - S.O. 16-24507	NCPC FILE NUMBER 7805
3450 Eads Street, NE Washington, DC	NCPC MAP FILE NUMBER 81.00(44.40)44387
SUBMITTED BY District of Columbia Department of Consumer and Regulatory Affairs Office of the Surveyor	ACTION TAKEN Approval of comments to the Council of the District of Columbia
	REVIEW AUTHORITY Advisory Per DC Code § 9-202.02

The District of Columbia Office of the Surveyor has referred to the Commission for review and comment the closure of a portion of an alley in Square 5017. The alley proposed to be closed with this application is a 16-foot wide north/south alley abutting Lots 839 and 840 in Square 5017. The owner of the subject property is 3443 Benning, LLC.

The subject property is bounded by a public alley to the north and west, privately owned property to the east, and Eads Street to the south in Northeast Washington. The proposed alley closing allows for the consolidation of the applicant's property which is bisected by the alley and allows for the construction of a new residential development on the subject property. The project, ZC 16-20, has been reviewed as a Planned Unit Development (PUD) by the District of Columbia Zoning Commission. The Zoning Commission took a proposed action on the zoning case and referred it to the National Capital Planning Commission (NCPC) for review at its September 7, 2017 meeting.

The subject property contains 17,838 square feet of land area, or approximately 0.40 acres. The total gross floor area included in the planned project is approximately 62,000 gross square feet of building area with parking for approximately 17 vehicles. The project will have one 30-foot loading berth. All parking and loading for the project will be accessed from the existing 20-foot-wide public alleys which connect to Eads Street, 34th Street, and 36th Street. The portion of the alley to be closed will not affect the function of the alley or reduce access to any of the other properties using the alley.

The Coordinating Committee reviewed the project at its August 16, 2017 meeting and forwarded the proposed alley closing to the Commission with the statement that the project has been coordinated with all participating agencies. The participating agencies were: NCPC; the District of Columbia Office of Planning; the District of Columbia Department of Transportation; the District Department of Energy and the Environment; the National Park Service; the District of Columbia State Historic Preservation Office; the General Services Administration; and the Washington Metropolitan Area Transit Authority.



Figure 1: Alley Closing Plan, Square 5017

* *

Pursuant to delegations of authority adopted by the Commission on October 3, 1996 and per DC Code § 9-202.02, I find that the proposed closing of a portion of a public alley in Square 5017 in northeast Washington would not be inconsistent with the *Federal Elements of the Comprehensive Plan for the National Capital* nor would it adversely affect any other federal interests.

// Original Signed//

Marcel Acosta
Executive Director

August 31, 2017

Date

1 **DRAFT COMMITTEE PRINT**
2 **Committee of the Whole**
3 **November 19, 2019**

4
5
6
7 **A BILL**

8
9 **23-328**

10
11
12 **IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**

13
14
15
16 To order the closing of a portion of the public alley system in Square 5017, bounded by Benning
17 Road, N.E., 36th Street, N.E., Eads Street, N.E., and 34th Street N.E., in Ward 7.

18
19 **BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this**
20 act may be cited as the “Closing of a Pubic Alley in Square 5017, S.O. 16-24507, Act of 2019.”

21 **Sec. 2.** Pursuant to section 404 of the District of Columbia Home Rule Act, approved
22 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street
23 and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law
24 4-201; D.C. Official Code § 9-201.01 et seq.), the Council finds a portion of the public alley
25 system in Square 5017, as shown on the Surveyor’s plat filed in S.O. 16-24507, is unnecessary
26 for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor’s
27 plat. The approval of the Council of this alley closing is contingent upon the satisfaction of all
28 conditions set forth in the official file for S.O. 16-24507 before the recordation of the alley-
29 closing plat.

30 **Sec. 3.** Fiscal impact statement.

31 The Council adopts the fiscal impact statement in the committee report as the fiscal
32 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
33 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

34 Sec. 4. Effective date.

35 This act shall take effect following approval by the Mayor (or in the event of veto by the
36 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
37 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
38 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
39 Columbia Register.